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**FILED**  
Superior Court of California  
County of Los Angeles

SEP 01 2017

Sherri R. Carter, Executive Officer/Clerk  
By Paul So, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

THE PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff,

v.

GEORGE A. PANOUSSIS, also known as  
GEORGE PAN ANDREAS and  
GEORGE ANDREAS PANOUSSIS, an  
individual; NOVAP CORPORATION, a  
Nevada corporation; and DOES 1 through  
100, inclusive,

Defendants.

CASE NO. BC624202

**DEFENDANTS GEORGE PANOUSSIS'  
AND NOVAP CORPORATION'S  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT/ADJUDICATION;  
MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF  
GEORGE PANOUSSIS**

[Defendants' Separate Statement, Request for  
Judicial Notice, and Objections to Plaintiff's  
Evidence filed herewith]

Date: 9/15/2017  
Time: 8:37 am  
Dept: 32

Hon. Daniel S. Murphy

Defendants George Panoussis and Novap Corp. ("Defendants") hereby submit this  
brief in opposition to the Plaintiff's motion for summary judgment/adjudication.

**I. INTRODUCTION**

The Plaintiff's motion for summary judgment/adjudication should be denied  
because it is procedurally defective and substantively based on misleading and misplaced  
arguments as follows:

1. There are triable issues of material fact regarding the Plaintiff's argument that the  
Hollywood Dream Suites Hotel ("Hollywood Hotel") cannot rent units on a short  
term basis. Briefly, the Plaintiff acknowledges that the Hollywood Hotel was built

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1 in the City of Los Angeles in 1927 prior to the enactment of the Los Angeles  
2 Municipal Code. At the same time, Plaintiff improperly applies modern city  
3 ordinances and modern city definitions to this 90 year-old building, without regard  
4 to the laws in effect in 1927, various land use grandfathering laws and the vested  
5 rights doctrine. Simply put, the definition of "apartment house" has not stayed the  
6 same between 1927 and 2017. In fact, short term rentals were permitted in  
7 apartment houses in 1927 and beyond. Because this case involves a 90 year-old  
8 building, the land use issues in this case implicate local and State grandfathering  
9 laws, and the vested rights doctrine, all of which are completely ignored by the  
10 Plaintiff. Therefore, summary judgment/adjudication must be denied on the merits  
11 because there are triable material facts at issue regarding the aforementioned  
12 issues.  
13

14 2. In support of its motion, Plaintiff solely relies on the most current municipal code  
15 ordinances. However, these ordinances are irrelevant to this case. Tellingly, and  
16 presumably intentionally, the Plaintiff stops short of referencing the laws that were  
17 in effect at the time the Hollywood Hotel was built, which are the relevant laws in  
18 this case, as they go to the issue of whether short term rentals were permitted for  
19 apartment houses in 1927, and if so, do various grandfathering laws and the  
20 doctrine of vested rights preserve the Hotel's right to continue renting out units for  
21 less than 30 days.  
22

23 3. The Plaintiff alleges the alter ego theory of liability against Defendant George  
24 Panoussis for acts allegedly done by Defendant Novap Corporation. However,  
25 Plaintiff failed to produce any evidence in support of this theory. Defendant,  
26 however, produced evidence that contradicts Plaintiff's alter-ego allegations. See  
27 Panoussis Declaration, ¶3, attached hereto.  
28

1 4. Procedurally, the moving papers request summary adjudication for all causes of  
2 action. Each cause of action includes an element of damages. Because Plaintiff  
3 failed to argue damages or present any evidence of damages, both motions should  
4 be denied.

## 5 6 II. STATEMENT OF FACTS

7 As admitted by Plaintiff in its moving papers, the Hollywood Hotel was built in  
8 1927 in the City of Los Angeles. As also admitted by Plaintiff, the first iteration of the  
9 Los Angeles Municipal Code ("LAMC") was enacted in 1936. This is an important fact  
10 of this case because the Plaintiff's entire theory rests on the improper conclusion that  
11 because the Certificate of Occupancy ("C of O") for the Hollywood Hotel states  
12 "apartment house," and the current LAMC precludes short term rentals in apartment  
13 houses, that means the Hollywood Hotel cannot be used for short term rentals.

14 The fiction that Plaintiff relies on that an apartment house cannot rent units for less  
15 than 30 days is a recent development which stems from a highly politicized and  
16 controversial campaign run by the City. Politics aside, back when the Hollywood Hotel  
17 was built, distinctions between short term rentals and long term rentals in apartment  
18 houses were not contemplated, and indeed apartment houses were permitted to rent units  
19 for less than 30 days. Plaintiff's improper conclusion that this 90 year old apartment  
20 house is not permitted to rent on a short term basis is short-sighted and is unsupported by  
21 the law and facts for many reasons.

22 First, Plaintiff ignores the history of the Hollywood Hotel's rentals of units on a  
23 short term basis, which was permitted when the Hotel acquired its vested right to operate,  
24 and which right is protected by local and state grandfathering laws and the vested rights  
25 doctrine.  
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1 Second, fundamentally, Plaintiff's argument that apartment units cannot be rented  
2 short term is logically flawed because it assumes the laws controlling apartment houses  
3 have always disallowed short term rentals. That conclusion is completely incorrect. In  
4 fact, the laws in effect in 1927 permitted apartment units to be rented on a short term  
5 basis.

6 Third, the Plaintiff's theory of the case thus far has been framed in strict liability,  
7 which is inappropriately narrow and unsupported by the law. What the Plaintiff entirely  
8 misses, or ignores, is that State and local land use laws, and the vested rights doctrine,  
9 protects the uses and occupancies of buildings like the Hollywood Hotel from the exact  
10 political persecution that the Plaintiff is conducting not only against this Hotel, but  
11 against others which Plaintiff touts in its press releases.

12 Fourth, Defendant Novap has been paying transient occupancy taxes ("TOT") for  
13 years to the City for renting the Hollywood Hotel's units for less than 30 days. For that  
14 time the City accepted the TOT payments from Novap, implicitly permitting the Hotel to  
15 operate. While one arm of the City accepts TOT payments by Novap, the other arm filed  
16 this case. At most, there are triable issues of material fact regarding the City's acceptance  
17 of TOT payments by Novap, and whether the City should be estopped from this political  
18 persecution.  
19  
20

21 **III. STANDARDS FOR SUMMARY JUDGMENT/ADJUDICATION MOTIONS**

22 Pursuant to CCP §437c(c), a motion for summary judgment is only granted "if all  
23 the papers submitted show that there is no triable issue as to any material fact and that the  
24 moving party is entitled to judgment as a matter of law. The movant must sustain the  
25 burden of proof on all theories of its complaint and must negate all issues raised by the  
26 answer. *Hayward Union School District v. Madrid* (1965) 234 Cal.App.2d 100, 120.  
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1 Plaintiff has the burden of persuasion in the current motion as well. If any of the  
2 evidence presented by Defendants would allow a reasonable trier of fact to find in their  
3 favor under the appropriate standard of proof, Plaintiff's motion must be denied. *Aguilar*  
4 *v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826.

5 Defendants receive certain advantages as the opposing parties because the burden  
6 of proof and burden of persuasion rest on Plaintiff as moving party. While Plaintiff's  
7 evidence is strictly construed, and any deficiencies are to be held against Plaintiff,  
8 Defendants' evidence is to be "liberally construed to determine the existence of triable  
9 issues of fact." *Gold v. Weisman* (2002) 114 Cal.App.4th 1195, 1198-1199. The *Gold*  
10 case requires that Defendants' evidence be liberally construed and that doubts as to  
11 whether issues of fact exist should be resolved in Defendants' favor. "Any doubts about  
12 the propriety of summary judgment...are generally resolved against granting the motion,  
13 because that allows the future development of the case and avoids errors." *Binder v.*  
14 *Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 839.

15 Here, not only did Plaintiff fail to meet its evidentiary burdens, but there are  
16 certainly triable issues of material fact, and there are substantial deficiencies in the legal  
17 and factual analysis of Plaintiff's presentation of its case for summary  
18 judgment/adjudication, such that the entire motion should be denied.  
19  
20

21 **IV. PLAINTIFF'S MOTION IS PROCEDURALLY DEFECTIVE TO THE**  
22 **POINT WHERE THIS COURT CANNOT GRANT SUMMARY**  
23 **JUDGMENT OR ADJUDICATION**  
24

25 **a. Plaintiff's Summary Judgment Motion Is Procedurally Defective**

26 Plaintiff's moving papers request that this Court grant summary judgment in this  
27 case. See Notice of Motion, page i, lines 5-8. Plaintiff's complaint requests damages  
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1 under all causes of action, with the amount of damages unliquidated and certainly denied  
2 by Defendants.

3 A summary judgment may be granted where it is shown that the "action has no  
4 merit or that there is no defense to the action or proceeding" and terminates the action  
5 without the necessity of trial. CCP §437c(a). However, summary judgment cannot be  
6 obtained in cases where there are claims for unliquidated damages where the amount is in  
7 dispute. *Department of Industrial Relations, Div. of Labor Standards Enforcement v. UI*  
8 *Video Stores, Inc.* (1997) 55 CA4th 1084, 1097.

9  
10 Here, Plaintiff seeks injunctions on all four causes of action, under which damage  
11 is an element to be proven. *Huong Que, Inc. v. Luu* (2007) 150 Cal.App.4th 400, 417.  
12 Plaintiff proffered zero evidence on the issue of damages in its moving papers, and  
13 therefore, the moving papers are deficient to dispose of the entire case. Aside from  
14 showing damages under injunctive relief, two causes of action have damages as an  
15 element of the cause of action: nuisance (CC §3480; CCP §731) and false advertising  
16 (Bus. & Prof. Code §17535). Defendants certainly deny all liability and amounts of  
17 damages, which puts the material facts of damages at issue. Because at least the triable  
18 issue of damages (material facts) exist as to all causes of action re: injunction and at least  
19 two causes of action re: monetary damages, this Court should deny Plaintiff's request for  
20 summary judgment.

21  
22 **b. Plaintiff's Summary Adjudication Motion Is Procedurally Defective As**  
23 **Well**

24 Likewise, just like how Plaintiff cannot obtain summary judgment because this  
25 case contains claims for unliquidated damages, Plaintiff's summary adjudication motion  
26 should be denied for the same reason.

27 Summary adjudication must completely dispose of the cause of action to which it  
28 is directed. CCP §437c(f)(1). Thus, if an element of a cause of action is damages, and

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1 when the damages amount is disputed, a plaintiff cannot obtain summary adjudication on  
2 the liability issue and leave the damages issue for resolution at trial. *Paramount*  
3 *Petroleum Corp. v. Sup.Ct.* (2014) 227 CA4th 226, 243, ["A plaintiff can obtain summary  
4 adjudication of a cause of action only by proving each element of the cause of action  
5 entitling the party to judgment on that cause of action."]. Emphasis added.

6 Here, Plaintiff alleges four causes of action: (1) Violation of the Los Angeles  
7 Municipal Code ("LAMC"), (2) Nuisance, (3) Unfair Business Competition, (4) False  
8 Advertisement. Damages is an element of all four causes of action, as follows:

9  
10 i. Cause of Action 1 for Violation of LAMC

11 LAMC §11.00(l) authorizes injunctive relief as a remedy for violating any  
12 provision of the municipal code. Plaintiff indeed seeks injunctive relief by its complaint.  
13 See Complaint, paragraph 23, lines 21-23. One of the elements of an injunction is a  
14 showing of damage (irreparable injury). *Huong Que, Inc. v. Luu* (2007) 150 Cal.App.4th  
15 400, 417. Here, Plaintiff failed to present evidence regarding irreparable injury in its  
16 moving papers and seeks an adjudication on liability alone. Therefore, the first cause of  
17 action cannot be completely disposed of, and Plaintiff cannot obtain summary  
18 adjudication thereon.

19  
20 ii. Cause of Action 2 for Nuisance

21 One element of a nuisance cause of action that property is injuriously affected.  
22 CCP §731. In other words, a showing of damage is necessary to prove a nuisance.  
23 Plaintiff failed to put forth any specific evidence regarding damage to property. At most,  
24 Plaintiff alleges that a nearby hotel allegedly suffered an unliquidated amount of lost  
25 profits, in addition to other unliquidated damages. Therefore this cause of action cannot  
26 be completed disposed of because unliquidated damages claims cannot be summarily  
27 adjudicated. *Department of Industrial Relations, Div. of Labor Standards Enforcement v.*  
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1 *UI Video Stores, Inc.* (1997) 55 CA4th 1084, 1097. Therefore, summary adjudication  
2 should be denied on this cause of action.

3 iii. Cause of Action 3 for Unfair Competition

4 Plaintiff prays for injunctive relief under its Unfair Competition cause of action.  
5 See Complaint, page 22, lines 1-25, and page 23, lines 16-23. First, injunctive relief  
6 requires a showing of damages (irreparable injury), and just like above, Plaintiff failed to  
7 present evidence of irreparable injury in its moving papers. Therefore, summary  
8 adjudication cannot be obtained on this cause of action on this basis alone. *Department*  
9 *of Industrial Relations, v. UI Video Stores, Inc. supra.*  
10

11 iv. Cause of Action 4 for False Advertising

12 The False Advertising law requires that damages be proved as an element of the  
13 cause of action. Cal. Bus. & Prof. Code §17535. Because Plaintiff's cause of action for  
14 false advertising claims an unliquidated amount of damages, and because claims for  
15 unliquidated damages cannot be summarily adjudicated (as shown above), summary  
16 adjudication on this cause of action must be denied.

17 In conclusion, Plaintiff's motion for summary judgment is procedurally defective  
18 because, at the very least, the claims for damages are in dispute on each cause of action,  
19 and any amount of damages, if awarded, is certainly in dispute. Therefore, summary  
20 judgment should be denied. Furthermore, Plaintiff's motion for summary adjudication is  
21 also procedurally defective because each cause of action cannot be disposed of because  
22 Plaintiff failed to offer evidence of unliquidated damages on any cause of action.  
23

24  
25 V. THERE ARE TRIABLE ISSUES OF MATERIAL FACT IN THIS CASE  
26 WHICH DEFENDANTS HAVE A RIGHT TO PRESENT AT TRIAL, AND  
27 WHICH DEFEAT THIS MOTION  
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1 Absolutely critical to this case is the issue of the Hollywood Hotel's history,  
2 particularly the history of laws that permitted short term rentals in apartment houses in  
3 Los Angeles in the 1920's. This issue was raised in Defendant's answer as an affirmative  
4 defense and is still a triable issue, despite the Plaintiff's total disregard for it.

5 Plaintiff argues in its moving papers that this is a simple, cut and dried case  
6 involving a simple zoning violation. Indeed, the cut and dried posture is what every  
7 plaintiff who goes to court argues, but this Court should not adopt such a simplistic  
8 interpretation of this case.

9  
10 Defendants do not present the historical arguments herein to muddy the waters  
11 unnecessarily either. The great significance of the laws in effect in the 1920's, the State  
12 and local grandfathering laws, the vested rights doctrine, and the history of the  
13 Hollywood Hotel drives right to the heart of the zoning issues in this case. On one hand,  
14 the Plaintiff argues that the most current Los Angeles Municipal Code definitions and  
15 zoning ordinances prohibit the Hollywood Hotel from operating. On the other hand,  
16 Defendants argue that the applicable historical building ordinances applicable in Los  
17 Angeles permitted short term rentals in apartment houses, that the Hollywood Hotel  
18 historically rented units for short terms, and State and local law protects the Hollywood  
19 Hotel's vested right to continue renting on a short term basis.

20  
21 This case, at its core, is about the Plaintiff arguing that the Hollywood Hotel does  
22 not conform to modern ordinances. However, there are very few century-old buildings  
23 that do comply with modern ordinance requirements, by virtue of grandfathering laws  
24 and vested rights. Just like how existing buildings are not required to undergo  
25 construction every time a local ordinance changes building requirements, (a.k.a.  
26 'grandfathering'), a building's compliance with local ordinances is a product of the year it  
27 was erected. Therefore, for the Plaintiff to try to apply 2017 ordinances to a building  
28 erected in 1927 is nonsensical: historical analysis is necessary to determine a 90 year old

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1 property's compliance with the law. Plaintiff has failed to undergo any such historical  
2 analysis in its moving papers, or in this case at all. The historical analysis, as provided in  
3 this Opposition Brief, is necessary to determine the issues in this case.

4           **a. Historically, Short Term Rentals Were Permitted At The Hollywood**  
5           **Hotel**

6           It is undisputed that the Hollywood Hotel was built in 1927 in the City of Los  
7 Angeles. It is also undisputed that the first iteration of the Los Angeles Municipal Code  
8 ("LAMC") was enacted in 1936. In fact, the governing law that was applicable to the  
9 Hollywood Hotel in 1927 was the 1923 version of the State Housing Act ("SHA"). The  
10 SHA defines an apartment house as the following:  
11

12           '"Apartment house' is any building, or portion thereof, more  
13 than one story in height, which is designed, built, rented,  
14 leased, let or hired out to be occupied, or which is occupied as  
15 the home or residence of three or more families living  
16 independently of each other and doing their cooking in said  
17 building." Statutes of California, 1923, Chapter 386, section  
18 10.

19           '"Family' is one person living alone or a group of two or more  
20 persons living together in an apartment, whether related to  
21 each other by birth or not." *Id.*

22           As shown above, the SHA simply does not require that an apartment house rent  
23 units for long term (more than 30 days), as short term rentals and long term rentals were  
24 permitted in apartment houses at the time the Hollywood Hotel was constructed and was  
25 issued a certificate of occupancy.

26           Next, there are several grandfathering laws that are applicable in this case. At the  
27 local level, LAMC §91.8103.1 provides the following:  
28

1           **91.8103.1. General.** Every existing building or structure  
2 constructed under a valid permit and occupied in  
3 conformance with code regulations and Department approvals  
4 in effect at the time of such construction and occupancy shall  
5 be allowed to continue to exist under those regulations and  
6 approvals even though subsequently adopted regulations and  
7 approvals have changed the requirements, provided the  
8 building, structure or portion thereof does not become a  
9 nuisance, a hazardous building, or a substandard residential  
10 building, and provided further, that subsequently adopted  
11 regulation specifically applicable to existing buildings or  
12 structures are met.

13  
14           Next, State law provides for grandfathering as follows:

15           Cal. Health & Safety Code §18938.5 provides as follows:

16           (a) Only those building standards approved by the  
17 commission, and that are effective at the local level at the  
18 time an application for a building permit is submitted, shall  
19 apply to the plans and specifications for, and to the  
20 construction performed under, that building permit.

21           (b)

22           (1) A local ordinance changing or modifying building  
23 standards for residential occupancies, which are published in  
24 the California Building Standards Code, shall apply only to  
25 an application for a building permit submitted after the  
26 effective date of the ordinance and to the plans and  
27 specifications for, and the construction performed under, that  
28 permit.

          (2) Paragraph (1) shall not apply to any of the following:

          (A) A city or county that has been subject to an emergency  
proclaimed pursuant to the California Emergency Services  
Act (Chapter 7 (commencing with Section 8550) of Division  
1 of Title 2 of the Government Code).

          (B) A permit that is subsequently deemed expired because  
the building or work authorized by the permit is not  
commenced within 180 days from the date of the permit, or  
the permittee has suspended or abandoned the work  
authorized by the permit at any time after the work is  
commenced for a period of 180 days.

          (C) A permit that is subsequently deemed suspended or  
revoked because the building official has, in writing,

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1 suspended or revoked the permit due to its issuance in error,  
2 due to the provision of incorrect information, or due to a  
3 violation of any of the provisions of the California Building  
Standards Code.

4 (c) No model code made applicable to any additional  
5 occupancy shall apply to any project that has been submitted  
6 for a building permit prior to the effective date of that model  
7 code.

8 Cal. Health & Safety Code §19870 provides, in pertinent part:

9 (a) As a result of construction inspection, an enforcement agency  
10 shall not impose a new or modified building standard different from  
11 those specified in the plans and specifications approved during plan  
12 checking functions for which a building permit is issued, unless the  
enforcement agency determines that any of the following apply:

13 (1) The standard is necessary to correct a violation of the  
14 governing code or standard and to protect the public health or  
safety.

15 (2) The plans and specifications did not reference the  
standard or were not in sufficient detail.

16 (3) There is a deviation, addition, or deletion from the plan.

17 (4) There are modifications to the plan by the permittee.

18 (5) The permit is deemed expired because the building or  
19 work authorized by the permit is not commenced within 180  
20 days from the date of the permit, or the permittee has  
suspended or abandoned the work authorized by the permit at  
any time after the work is commenced.

21 (6) The permit is deemed suspended or revoked pursuant to subdivision (e)  
of Section 303 of the latest adopted version of the Uniform Building Code.

22 (b) As used in this chapter:

23 (1) "Building standard" means a building standard as defined in Section  
24 18909, or other standard adopted by a local agency pursuant to Section  
17958 or subdivision (c) of Section 18941.5, that was effective on the date  
of the application for the building permit.

25 (2) "Enforcement agency" means any department of a local agency that has  
26 the authority to inspect a construction or renovation project and enforce  
health, safety, or building codes including, but not limited to, the building  
department or building division, the fire department or fire district, and the  
27 health department.

28 (3) "Local agency" means a city, county, or city and county.

1 (4) "Plans and specifications" mean the plans, drawings, and specifications  
2 for a construction or renovation project, for which a building permit was  
3 issued, which relates to buildings classified for occupancy as a building of  
4 Group A, B, and R-1, pursuant to the 1991, Edition of the Uniform  
5 Building Code of the International Conference of Building Officials.

6 (5) "Building inspector" means any employee or contractor of an  
7 enforcement agency who performs inspections of a construction or  
8 renovation project for the purpose of assuring compliance with adopted  
9 uniform building codes and standards.

10 (6) "Supervisor" means any employee of any enforcement agency to whom  
11 a building inspector reports and who is responsible for reviewing a building  
12 inspector's project approvals or denials or modification orders.

13 (7) "Permittee" means a building owner, building property manager, or  
14 authorized representative to whom a building permit is issued by the  
15 enforcement agency.

16 As argued above, the 1927 use and occupancy of the Hollywood Hotel was for  
17 short term (less than 30 days) and long term rentals (30 days or more). Pursuant to the  
18 multiple grandfathering laws set forth directly above, the 1927 use and occupancy (short  
19 term rentals) of the Hollywood Hotel is grandfathered in to the present. Therefore,  
20 summary judgment/adjudication should be denied.

21 **b. The Hollywood Hotel Has A Vested Right To Continue Renting Rooms**  
22 **On A Short Term Basis**

23 In addition to all the grounds argued above, there are material facts at issue in this  
24 case that revolve around Defendants' vested right to continue operating the Hollywood  
25 Hotel's units on a short term basis. This issue of Defendants' vested rights is not properly  
26 subject to a motion for summary judgment because there are disputed material facts  
27 underlying this issue, including the disputed material fact that short term rentals occurred  
28 and were permitted at the Hollywood Hotel since 1927.

29 Defendants' argument that short term rentals are permitted, by virtue of the vested  
30 rights doctrine, is supported by the case *Goat Hill Tavern v. City of Costa Mesa* (1994) 6  
31 Cal.App.4<sup>th</sup> 1519. Broadly, *Goat Hill Tavern* stands for the proposition that an

1 established business has a vested right to continue operating without interference by the  
2 government.

3 Specifically the facts of *Goat Hill Tavern* are as follows. A tavern, which had been  
4 in operation for 35 years and existed as a legal nonconforming use under Costa Mesa's  
5 zoning ordinance, applied for a renewal of a conditional use permit. The city of Costa  
6 Mesa intended on closing the tavern and denied the tavern's application based on  
7 complaints received by neighboring residents and businesses. The Court of Appeal ruled  
8 that the tavern had a vested right to continue operation of its business because it had been  
9 operating for 35 years and Costa Mesa permitted this business, and Costa Mesa's denial  
10 of the application adversely affected the tavern's vested right to continue operating.  
11

12 The fact that *Goat Hill Tavern* was a writs case, and this case is not, is of no  
13 material consequence. The rule of law from *Goat Hill Tavern* is that an existing business  
14 has a vested right to continue to exist without interference by a local government.

15 Here, the instant case presents a substantially similar set of facts to *Goat Hill*  
16 *Tavern*. In both cases,

- 17 • the businesses had been in operation for decades (this Defendants' business has  
18 been in operation for 90 years);
- 19 • the cities permitted the businesses;
- 20 • the cities sought to close the business;
- 21 • neighboring businesses complained about the businesses.

22 There are certainly triable issues of material fact that concern the Hollywood  
23 Hotel's vested right to continue operating short term rentals, as it was permitted to do in  
24 1927, and as it is permitted to do presently. Plaintiff's total disregard of land use laws  
25 and grandfathering laws does not render this case cut and dried. In fact, a much deeper  
26 analysis is required; a deeper analysis that Plaintiff completely ignores in its moving  
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28



1 papers. The majority of the material facts at issue above are disputed. Therefore,  
2 summary judgment/adjudication should be denied.

3 **c. Plaintiff May Not Prevail On Either Of Its Motions As Triable Issues**  
4 **Of Material Fact Exist As To Each Of The Defendants' Liability**

5 Plaintiff's motion is based upon a theory that each of the Defendants is separately  
6 liable for the acts alleged in the complaint, and that each Defendant should be subjected  
7 to the relief that the complaint seeks. More specifically, Plaintiff alleges that Defendant  
8 Novap Corp. was Defendant George Panoussis' alter ego. Defendants' Opposition  
9 contains evidence that dispute Plaintiff's mere allegations of alter-ego liability, which  
10 allegations were not supported by any evidence in Plaintiff's moving papers. However,  
11 to be thorough, Defendants make this argument.  
12

13 For summary judgment/adjudication to be granted there cannot be one triable issue  
14 of material fact as to any Defendant. Plaintiff's separate statement of facts in support of  
15 summary adjudication is word-for-word identical to the purported undisputed facts on  
16 which Plaintiff bases its request for summary judgment. If Plaintiff's purported  
17 undisputed facts are insufficient for this Court to grant summary judgment, then  
18 Plaintiff's request for summary adjudication must also fail.

19 Defendant George Panoussis is not the owner of the Hollywood Hotel. Novap  
20 Corp. owns the Hollywood Hotel. Because Panoussis does not own the Hotel, he cannot  
21 be liable for alleged zoning violations, and nuisance. Panoussis also denies that he, as an  
22 individual, ever performed any of the acts that Plaintiff alleges were unfair business  
23 practices. (Novap Corp. also denies these allegations). Because Panoussis does not own  
24 the Hollywood Hotel, and because Panoussis never advertised use of the Hotel in his  
25 individual capacity, as a matter of law, he cannot be liable for the unfair business  
26 practices claims. Not only did Plaintiff not proffer any evidence in its moving papers to  
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1 support alter-ego, but Defendant Panoussis' declaration in support of this opposition  
2 clearly provide evidence to the contrary.

3        Triable issues of fact thus exist as to any purported liability in this case and  
4 Defendants have a right to have them tried. Because Plaintiff chose to frame its motion  
5 in such a manner to treat both Defendants as one entity, and because Plaintiff failed to  
6 offer any uncontroverted evidence of alter-ego, and because there is competent evidence  
7 offered that they are separate and distinct entities, the motion must be denied.  
8

9        **d. Plaintiff Failed To Show That There Were No Material Facts At Issue**

10        Plaintiff had the burden of proof to show that there are no triable issues of material  
11 fact in this case. Because of the massive gap in Plaintiff's theory of the case, (i.e.  
12 ignoring grandfathering laws, vested rights, and the laws that were in effect at the time  
13 the Hollywood Hotel was built and began operating) summary judgment/adjudication  
14 cannot be granted. Furthermore, Plaintiff failed to show that it was entitled to judgment  
15 as a matter of law on any issue in the case because the legal analysis was likewise just as  
16 vacant as its factual analysis. Summary judgment/adjudication simply cannot be  
17 supported.  
18

19        **VI. CONCLUSION**

20        **Procedural defects.** Plaintiff's motion for summary judgment should be denied  
21 because the element of damages (not penalties) of each cause of action was not addressed  
22 by Plaintiff, and therefore a favorable ruling on the motion would not entirely dispose of  
23 the case.

24        Plaintiff's motion for summary adjudication should be denied on each of the four  
25 grounds because the element of damages (not penalties) of each cause of action was not  
26 addressed by Plaintiff, and therefore a favorable ruling on each cause of action would not  
27 entirely dispose of the cause of action.  
28

1       **On the merits.** The following triable issues of material facts exist in this case and  
2 are disputed:

- 3       • That 830 Van Ness is historically permitted to rent units for 30 days or less;  
4       • State and local grandfathering laws;  
5       • Vested rights of the Hollywood Hotel;  
6       • Alter-ego liability;  
7       • Damages (both monetary and equitable) on each and every cause of action.

8       These aforementioned issues cannot be resolved by this motion. Defendants have  
9 a right to have these material facts tried.

10       Lastly, Plaintiff failed to prove any of its causes of actions or any issue in the case  
11 because it completely failed, or refused, to present any legal or factual analysis regarding  
12 the ordinances from 1927 that apply in this case and that implicates material facts  
13 regarding grandfathering laws and vested rights.

14       The Court should not look at this case in a vacuum. Property rights are vastly  
15 more intricate than the Plaintiff appears to believe. In fact, historical analysis is  
16 absolutely necessary to determine any property's compliance with the law on any issue,  
17 whether it be a property built prior to rent control, or a property built prior to when short  
18 term rentals were completely disfavored by political machines. Defendants request that  
19 this case survive to be properly tried by a finder of fact.  
20  
21

22       Respectfully submitted,  
23

24       Dated: 9/1/2017

LAW OFFICES OF THOMAS A. NITTI

By 

THOMAS A. NITTI

Attorneys for Defendants

**DECLARATION OF GEORGE PANOUSSIS**

I, George Panoussis, hereby declare:

1. I am a defendant in this action. If called as a witness in this matter, I would and could competently testify as set forth below of my own personal knowledge.
2. I am the President of Novap Corporation.
3. In my role as president, observe all corporate formalities with regard to Novap Corp. I maintain records on behalf of Novap Corp. There are other officers of Novap Corp. besides myself. Novap Corp. holds annual meetings. Novap Corp. has its own bank account, and its own credit card, which is separate and distinct from my own. I do not commingle any of my personal funds and other assets with those funds and assets of Novap Corp. I do not treat the assets of Novap Corp. as my own. Novap Corp. is adequately capitalized.
4. Novap has owned 830 Van Ness since May 27, 1992 (over 25 years).
5. During that time period, Novap has peacefully rented rooms for both short terms (less than 30 days) and long terms (more than 30 days), without complaint.
6. It is only because of the City's heavily publicized and controversial campaign against AirBnB that Novap has been drawn into this litigation.
7. All occupants who rent at 830 Van Ness are protected from eviction by Los Angeles Rent Control, whether short term, or long term.
8. As a result, the occupant basically decides the length of his or her occupancy.
9. I cannot force out an occupant who chooses not to leave.
10. The City is suing Novap for having short term rentals. However, under City rent control law Novap cannot enforce any termination dates on any rental. Any occupant, if he or she so chooses, is allowed to stay at 830 Van Ness for the rest of his or her life, subject only to timely payment.
11. The City is suing Novap for impossibility. There are no enforceable short term rentals at 830 Van Ness. Any occupant can stay any length of time, at his or her

09/05/2017

1 discretion (because of rent control). Since an enforceable short term rental is  
2 impossible in a rent controlled building, how can Novap be accused of having  
3 short term rentals?

4 12. 830 Van Ness was built in 1927. There were no laws that prohibited short-term  
5 rentals at that time. I am informed and believe that short term rentals were  
6 common in 830 Van Ness in the 1920's and 1930's. I am informed and believe  
7 that the words "Apartment Building" had a different meaning back then; different  
8 than what it means today. At that time, it was not unusual to occupy an apartment  
9 building for a short length of time.

10 13. Novap Corporation has a vested right to continue operating 830 Van Ness as  
11 originally developed, despite subsequent adoption of more restrictive codes and  
12 zoning by the City of Los Angeles. At most, it is a vested non-conforming use.

13 14. Novap has paid both rent control fees on long term rentals and Transient  
14 Occupancy Tax on short term rentals to the City of Los Angeles. The City has  
15 accepted all payments without objection.

16  
17 See attached verification.  
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09/05/2017



VERIFICATION

STATE OF CALIFORNIA, COUNTY OF Los Angeles

Declaration of George Panoussis

I have read the foregoing

and know its contents.

CHECK APPLICABLE PARAGRAPH

- ☒ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to the matters which are stated on information and belief, and as to those matters I believe them to be true.
- ☒ I am ☒ an Officer ☐ a partner ☐ of Novap Corporation

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for Novap Corporation a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on September 1 2017 at California

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

George Panoussis

*George Panoussis*

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

BY MAIL

I am employed in the county of California from over the age of 18 and not a party to the within action. My business address is California

On September 1 2017 I served the foregoing document(s) described as Novap Corporation

- ☒ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.
- ☒ by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows:

☒ deposited such envelope in the mail at California. The envelope was mailed with postage thereon fully prepaid.

☐ As follows, I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on September 1 2017 at California

BY FACSIMILE: The document was transmitted to the parties via electronic (facsimile) mail to the number(s) noted below:

BY PERSONAL DELIVERY: The document was transmitted to the parties via personal messenger/delivery service.

Executed on September 1 2017 at California

- ☐ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing are true and correct.
- ☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

CLERK'S OFFICE: This form is provided for use by the court clerk's office. It is not to be used by the parties or their attorneys.

BY MAIL: SERVICE MAY BE OF PERSONAL DELIVERY SERVICE OR BY MAIL. E-MAIL SERVICE IS NOT PERMITTED.

NOTICE: THIS COUNTY CLERK'S OFFICE RECEIVES ALL PROOFS OF SERVICE FILED WITH THE COURT AS OF ANY. THE MUST SPECIFY THE NAME OF THE PARTY SERVED, THE OFFICE AND COUNTY OF SERVICE, AND THE DATE OF SERVICE. IF THE SERVICE IS BY MAIL, THE DATE OF MAILING, THE DATE OF DELIVERY, AND THE NAME, ADDRESS AND PHONE NUMBER OF THE PERSON SERVING.



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**PROOF OF SERVICE**

State of California, County of Los Angeles

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 1250 Sixth Street, Suite 305, Santa Monica, California 90401.

On September 1, 2017, I served the following document(s) described as:

**DEFENDANTS GEORGE PANOUSSIS' AND NOVAP CORPORATION'S  
OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT/ADJUDICATION; MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF GEORGE PANOUSSIS**

on the interested parties in this action by placing a true copy thereof in a sealed envelope(s), addressed as follows (sans any fax number):

Andrew K. Wong, Deputy City Attorney  
Office of the Los Angeles City Attorney  
200 N. Main Street, 500 CHE, 5<sup>th</sup> Floor  
Los Angeles, CA 90012  
[Andrew.k.wong@lacity.org](mailto:Andrew.k.wong@lacity.org)

☐ BY PERSONAL SERVICE – I delivered such envelope by hand to the offices of the addressee.

☐ BY FAX – I faxed the document to the fax number indicated below the addressee's name and address (without envelope).

☐ BY MAIL – I deposited such envelope in the mail at Santa Monica, California. The envelope was mailed with the postage thereon fully prepaid.

☒ BY E-MAIL – I emailed the document to the e-mail address indicated below the addressee's name and address (without envelope).

I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

Date: September 1, 2017

*Nydia Vergara*  
\_\_\_\_\_  
Nydia Vergara

PROOF OF SERVICE